

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii

REF:OCCL:DH

ENF: MA-08-31

July 11, 2008

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Enforcement File No. MA-08-31
Regarding the Alleged, Unauthorized Removal of River Rocks from
the Paukukalo Shoreline

BY: Alleged, Charlie K. Bright, 47-568 Nenehiwa Place, Kaneohe,
Hawaii, 96744
Alleged, Ralph Chun, 47-483 Pakai Place, Kaneohe, Hawaii, 96744
Alleged, Victor Fomoimoana, 47-654 Uakea Place, Kaneohe, Hawaii,
96744

AREA: Paukukalo Shoreline in the Area Referred to as "River Mouth"

LOCATION: Waiehu, Wailuku District, Island of Maui

SUBZONE: Resource

DESCRIPTION OF AREA:

The alleged, unauthorized taking of river rocks took place in an area known as the "River Mouth," an area where the Iao River merges with the Paukukalo Shoreline, in Waiehu, Wailuku District, Island of Maui. The area has been identified as state-owned unencumbered public lands, and is also located seaward of the shoreline in the State Land Use (SLU) Conservation District, Resource subzone (Exhibits 1, 2 & 3).

ALLEGED UNAUTHORIZED LAND USES:

On December 10, 2007, the Department of Land and Natural Resources (DLNR), Division of Conservation and Resources Enforcement (DOCARE) Maui Branch forwarded a complaint regarding the unauthorized taking of river rocks to the Office of Conservation and Coastal Lands

(OCCL) and Maui District Land Division (MDLO) for review and disposition. The following is a summary of events that occurred according to the DOCARE report:

August 28, 2007

Three alleged men, Mr. Charlie K. Bright, Mr. Ralph Chun, and Mr. Victor Fomoimoana, allegedly removed river rocks from the Paukukalo Shoreline, allegedly placed the rocks into three separate vehicles, and allegedly deposited the three vehicles at the Hawaii Superferry Kahului Terminal premises (located on the corner of Wharf Street and Kaahumanu Avenue) for vehicular transport to the island of Oahu.

August 29, 2007

Alleged Mr. Bright, alleged Mr. Chun, and alleged Mr. Fomoimoana among other passengers were portrayed in the Maui News article, "Ferry Passengers Travel by Air Instead" (**Exhibit 4**).

August 31, 2007

The DOCARE Maui Branch received a complaint from the Maui Sierra Club regarding the taking of rocks at the Paukukalo Shoreline and information that the three trucks were parked at the Superferry terminal. DOCARE officers were dispatched to the terminal, to locate, and inspect the three pickup trucks that allegedly contained river rocks¹.

DOCARE officers received permission from terminal staff to locate the three vehicles. The three vehicles: 1) a Ford (blue) Ranger – License Plate Number FXU690; 2) a Chevrolet (gray) Silverado – License Plate Number PH1103; and 3) a GMC (white) Pickup - License Plate Number CE469 were located in the "Vehicle Staging Area # 1." Each truck bed was covered by a tarp and held down by rocks. Openings in the tarps allowed a view of the rocks which were typically found in Hawaii's riverbed(s). DOCARE established probable cause had been sufficiently established and rolled back the tarps to reveal large quantities of rock located in the pickup truck beds.

The Maui Police Department (MPD) was contacted to verify the names and addresses of the registered owners of the three pickup trucks:

- License Plate Number FXU690 Ford (blue) Ranger – registered owner Charlie K. and Eileen I. Bright;
- License Plate Number PH1103 Chevrolet (gray) Silverado – registered owner Victor and Evette K. Fonoimoana; and
- License Plate Number CE469 GMC (white) Pickup - registered owner Ralph Chun.

September 3, 2007

¹ The Hawaii Superferry began service on August 26, 2007. However, the Hawaii Superferry had to halt services to Maui after the State Supreme Court ruled that an Environmental Impact Statement had to be conducted. Additionally, a Maui Second Circuit Court injunction halted the Superferry operations on Maui thus the three pickup trucks were unable to return to their point of origin, which was Honolulu.

The Hawaii Superferry Manager, Mr. Duane Kim, was contacted regarding DOCARE's intent to seize the rocks; authorization was given by Mr. Kim as long as the registered owners were informed by DOCARE.

DOCARE officers arrived at the Vehicle Staging Area and removed from the alleged Mr. Fonoimoana truck - 298 rocks; from alleged Mr. Bright's truck - 206 rocks; from the alleged Mr. Chun's truck - 430 rocks (**Exhibit 5**). The rocks were taken to the DOCARE baseyard facility.

Alleged Mr. Chun and alleged Mr. Bright were notified by DOCARE regarding: 1) the river rocks discovered in their pick up trucks at the Superferry Kahului terminal; 2) the DOCARE investigation; 3) the case would be forwarded to the Board of Land and Natural Resources (BLNR) for disposition; and 4) the rocks would be seized as evidence. Alleged Mr. Fonoimoana was contacted at his place of residence; a message was left on his answering machine.

The DOCARE report notes the alleged Mr. Bright noted he purchased the rocks from a private party and did not want to provide the name out of fear that he would get this person into trouble. The alleged Mr. Chun noted, "I've been diving at that spot for years and thought the ferry was a great way to get the rocks back to Honolulu because Honolulu does not have these types of rocks...we make imus to kalua and to help children on Oahu...I had taken the rocks to..." He was then advised by DOCARE that if he wanted to make a statement his Miranda Warnings would be issued.

Later that day DOCARE Branch Chief Awo was notified that off-duty DOCARE officer Gordon Yen witnessed the removal of river rock; a written statement is attached (**Exhibit 6**).

September 6, 2007

Maui District Land Office (MDLO) staff Larry Pacheco accompanied DOCARE to the area of the alleged violation. He confirmed the rocks were removed from State-owned unencumbered public land, and in an area located within the Conservation District (**Exhibit 7**).

September 7, 2007

DOCARE Branch Chief Awo orders the seizure of the three pickup trucks, pursuant to Chapter 199-7, Hawaii Revised Statutes (HRS).

The Hawaii Superferry Manager Mr. Kim was informed of the impending action. Permission is given to DOCARE to seize the vehicles. Mr. Kim asked DOCARE to inform the registered owners of the action.

Alleged Mr. Bright and alleged Mr. Fonoimoana were informed of the action and told to contact DOCARE Branch Chief Awo for further questions. DOCARE contacted Mr. Chun at his residence but he was unavailable. Information was left with an unknown female who noted they would relay the message; alleged Mr. Chun did not contact DOCARE.

DOCARE officers arrived at the Superferry Kahului Terminal and proceed to the Vehicle Staging Area # 3 with Superferry manager Mr. Kim and a tow company. J & M Tinting and Towing towed the three vehicles to the DOCARE baseyard. Currently, the three vehicles are stored at the baseyard.

Alleged Mr. Bright called DOCARE Branch Chief Awo regarding the seizure of his vehicle. Alleged Mr. Bright noted there was no need for him to receive his Miranda Warnings by Branch Chief Awo as he wanted to explain what happened in order to resolve the case. He noted he and two other males were responsible for removing the rocks from the shoreline of Paukukalo; the rocks were placed in their pickup trucks beds for transport back to Oahu via the Superferry. They took the rocks to be used in an imu, "we do this for the Mormon Church. Our Bishop told us to come to Maui to get imu rocks because ours is old already, about 10 to 12 years old. When they had the \$5.00 ferry fares, our Bishop said this is one good time to go to Maui to get new rocks. So we came to Maui. We went to Paukukalo because our Bishop knew about this place. We use the rocks to kalua pig for the Boy Scouts to support them through our fundraisers. We had good intentions. It was for a good cause. We didn't know it was illegal or that we needed a permit."

September 14, 2007

DOCARE contacted Maui Police Department (MPD) officer Lauren Natividad. On August 28, 2007, he was assigned to work special duty and was stationed in an area identified as "General Vehicles, Passenger Buses and Limo Entry" near Puunene Avenue. He noticed that when the trucks drove through his checkpoint the beds were covered in tarpaulins, were varying with heavy loads, and contained only drivers. He attempted to ask the driver of the Ford (blue) Ranger, alleged Mr. Bright, what he was carrying but he drove through the checkpoint and tried to avoid conversation. He recalled seeing the white and gray pick up trucks enter the checkpoints. He noticed the trucks beds were covered with tarpaulins but he did not have time to focus on the contents within.

Staff notes departmental records do not indicate correspondence from the three alleged men, Mr. Chun, Mr. Bright, and Mr. Fonoimoana regarding the unauthorized taking of river rocks from the Paukukalo Shoreline that occurred in the Conservation District, Resource subzone. The alleged, unauthorized taking of river rocks from the Paukukalo Shoreline by the three alleged, Mr. Chun, Mr. Bright, and Mr. Fonoimoana, are considered three land uses that occurred in the Conservation District without a permit, and are the subject of the staff report.

REFERRAL OF ALLEGED VIOLATIONS TO THE LAND BOARD RATHER THAN THE HEARING OFFICER/ADMINISTRATIVE PENALTY SYSTEM (HOAPS):

The alleged violations have been referred to the BLNR rather than HOAPS because of the seriousness of the violations². Due to the extensive nature of the clearing, staff determined that the violation must be referred to the BLNR as a Level I violation.

RESOLUTION OF UNAUTHORIZED LAND USES:

Conservation District

Chapter 13-5, Hawaii Administrative Rules (HAR) and Chapter 183C, Hawaii Revised Statutes (HRS), regulate land uses in the Conservation District by identifying a list of uses that may be allowed by Conservation District Use Permit. The chapters also provide for penalties, collection of administrative costs, costs associated with land and/or habitat restoration, and damages to state land for uses that are not allowed or for which no permit has been obtained. Chapter 13-5, HAR defines "land use" in part as: the placement or erection of any solid material on land or the grading, removing or dredging of any material or natural resource on land.

The alleged, unauthorized taking of river rocks from the Paukukalo Shoreline by alleged Mr. Chun, alleged Mr. Bright, and alleged Mr. Fonoimoana are considered three separate land uses that occurred in the Conservation District, Resource subzone without a permit, and therefore allegedly violate the above chapters. This report and staff seek conditions to resolve the three Conservation District violations. Pursuant to Chapter 183C, HRS, the maximum fine for a Conservation District violation is \$2,000 per violation in addition to administrative costs, costs associated with the land and/or habitat restoration, if required, and damages to state land. After written or verbal notification from the Department, willful violation of this section may incur an additional fine of up to \$2,000 per day per violation for each day the violation persists

DISCUSSION:

Staff notes the Maui Community, Superferry staff, Maui News, and Maui Police Department all helped with information that helped the DLNR so that this report could come before the Board of Land and Natural Resources (BLNR) to be resolved. It is a fine example of how community and agencies working cooperatively can help protect our state's precious natural resources.

Staff notes the stated purpose of the Conservation District law is to protect and conserve the natural resources. The section of the law, Hawaii Revised Statutes (HRS), Section 183C-7, refers to the enforcement of our conservation laws that should have a deterrent effect on people to prevent them from doing, or allowing malfeasance within the Conservation District.

² HOAPS distinguishes between Level I and Level II violations, the former being the more serious category which is referred to the Board, and the latter, minor violations, referred to HOAPS.

Land use is defined in Hawaii Administrative Rules (HAR), Section 13-5-2(2) as:

"the grading, removing, harvesting, dredging, mining or extraction of any material or natural resource from the land."

Staff notes Section 13-5-24, HAR, identified land uses in the Resource subzone, R-7, MINING AND EXTRACTION, D-1, provides guidelines for the mining and extraction of any material or a natural resource. However, this requires the acceptance of a Conservation District Use Application (CDUA) for processing, and the approval of the BLNR.

Staff notes the Land Division administrative rules also apply to this enforcement action pursuant to Chapter 222, Unencumbered Public Lands, Section 13-221-23, HAR, GEOLOGICAL FEATURES, and Section 171-58.5 9 HRS, PROHIBITIONS.

Staff notes alleged Mr. Fonoimoana removed 298 rocks, alleged Mr. Bright's removed 206 rocks, and alleged Mr. Chun's removed 430 rocks from the Paukukalo Shoreline. Mr. Fonoimoana and Mr. Bright state the intent of the rocks being taken was to make imu's for non-profit organizations and/or the Mormon Church. Staff notes the proper authorization and/or the required permits were not received.

Staff notes a check with the quarry companies and other companies that provide rock materials did not have the river rock in stock or for sale, such as the ones taken from the Paukukalo Shoreline. The reason is simple - river rocks are made by Nature and cannot be imitated. The very makeup of the river rocks is that they are porous, and retain heat, etc. are the same quality sought out in rocks for imu pits. Staff notes that although the men had good intentions and was for a good cause the removal of the rocks was still illegal and authorization and a permit would have been required from the Land Division and the OCCL.

Staff has considered the department's mechanism for the imposition of fines for the unauthorized taking of river rocks by the alleged Mr. Chun, alleged Mr. Bright, and alleged Mr. Fonoimoana. Staff recommends to the Board of Land and Natural Resources that the alleged Mr. Bright, alleged Mr. Chun, and alleged Mr. Fonoimoana each be fined \$2,000.00 for the unauthorized taking of river rocks from the Paukukalo Shoreline.

Staff further recommends to the BLNR that the alleged Mr. Bright, alleged Mr. Chun, and alleged Mr. Fonoimoana be fined for the following administrative fines - OCCL administrative fine \$500.00; MDLO fine \$500.00; and DOCARE Maui Branch fine \$2,150.00. The total administrative fine amount of \$3,150.00 is to be split three ways between that the alleged Mr. Bright, alleged Mr. Chun, and alleged Mr. Fonoimoana.

Staff recommends to the BLNR that the alleged Mr. Bright, alleged Mr. Chun, and alleged Mr. Fomoimoana will be able to claim their vehicles seized by DOCARE after payment of their individual fines to the OCCL.

This submittal and notice of the Board's meeting will be sent to that the alleged Mr. Bright, alleged Mr. Chun, and alleged Mr. Fomoimoana by certified mail and to the address of record in Hawaii. In addition, staff will request DOCARE's assistance in an attempt to personally serve them with this submittal and notice of the BNLNR's meeting in person.

STAFF RECOMMENDATION:

1. That Charlie K. Bright, Ralph Chun, and Victor Fomoimoana each did in fact, authorize, cause or allow the unauthorized taking of river rocks from the Paukukalo Shoreline to occur;
2. That the three unauthorized land use conducted by Charlie K. Bright, Ralph Chun, and Victor Fomoimoana are of a serious and willful nature;
3. That the three unauthorized land uses occurred within the State Land Use Conservation District, Resource subzone.


AS SUCH, STAFF RECOMMENDS AS FOLLOWS:

That, pursuant to Chapter 183C, HRS, the Board of Land and Natural Resources find Charlie K. Bright, Ralph Chun, and Victor Fomoimoana in violation of HRS, Chapter 183C and HAR, Chapter 13-5, and subject to the following:

1. That Charlie K. Bright, Ralph Chun, and Victor Fomoimoana did in fact violate the provisions of Chapter 183C, HRS, and Chapter 13-5, HAR, in three instances by failing to obtain the appropriate approvals for the unauthorized taking of river rocks from the Paukukalo Shoreline; that Charlie K. Bright, Ralph Chun, and Victor Fomoimoana are fined \$2,000.00 each; total fine \$6,000.00;
2. That Charlie K. Bright, Ralph Chun, and Victor Fomoimoana are fined an additional \$1,050.00 each for administrative costs associated with the subject violations; total fine \$3,150.00;
3. That Charlie K. Bright, Ralph Chun, and Victor Fomoimoana shall pay **\$3,050.00 each** within thirty days of the date of the Board of Land and Natural Resources action;
4. That Charlie K. Bright, Ralph Chun, and Victor Fomoimoana will receive their vehicles that were seized by the DOCARE Maui Branch office after payment of their individual fines to the Office of Conservation and Coastal Lands;

5. That in the event of failure of the Charlie K. Bright, Ralph Chun, and Victor Fomoimoana to comply with any order herein, they shall be fined an additional \$2,000.00 per day, until the order is complied with;
6. That in the event of failure of Charlie K. Bright, Ralph Chun, and Victor Fomoimoana to comply with any order herein, the matter shall be turned over to the Attorney General for disposition, including all administrative costs.

Respectfully submitted,



Dawn T. Hegger,
Senior Staff Planner

Approved for submittal:



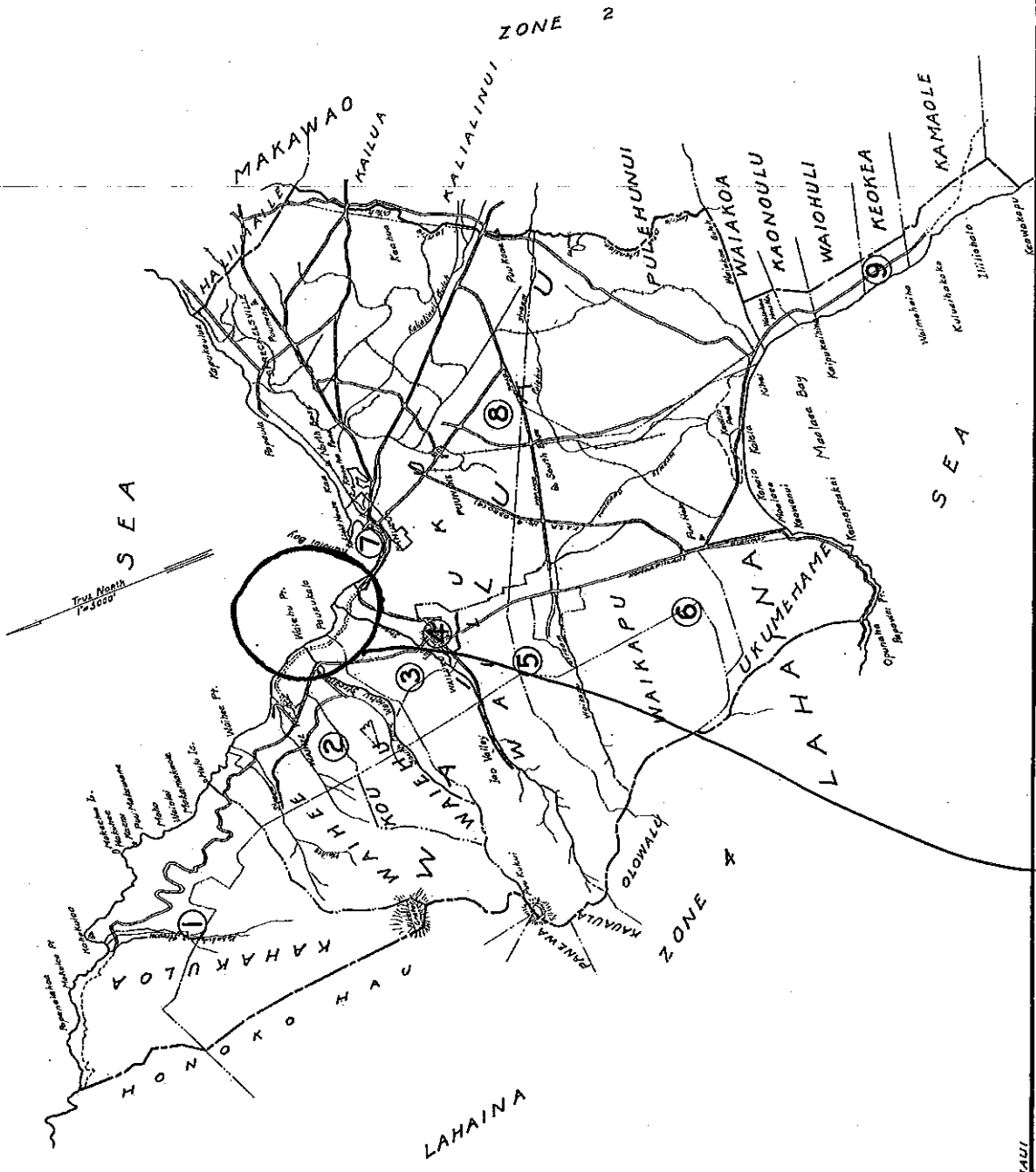
LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

[illegible]

Removal of Rocks
Paukukalo Shoreline, Wailuku, Maui

Dwg. No. 22
By: G. K. B. B. B. B.
Checked by: _____
Appr. by: _____
Source: Survey Dept.
Appr. by: _____

WAILUKU-MAUI

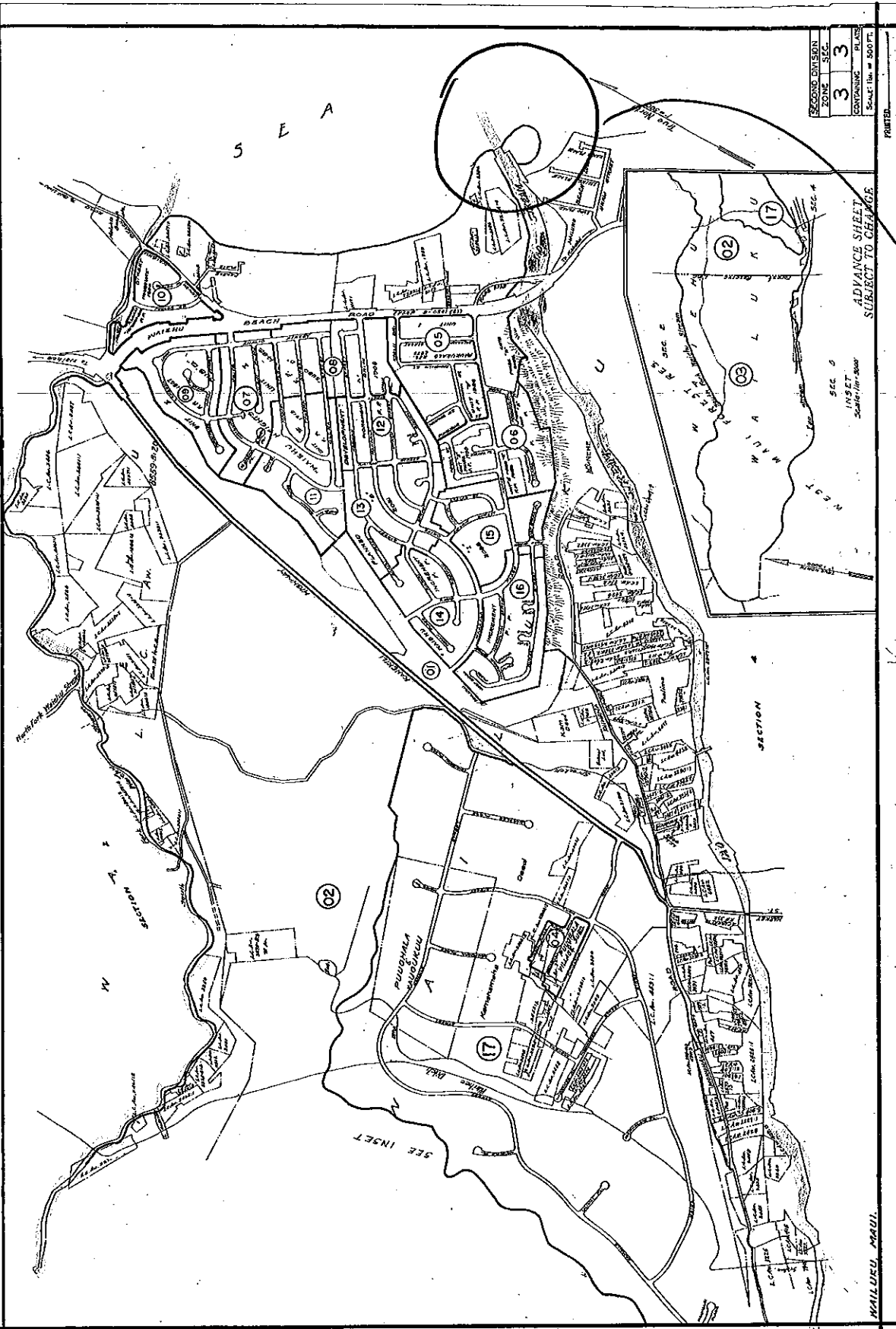


SECOND DIVISION	ZONE
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CONV. 9 30	Scale 1:50,000

ADVANCE SHEET
SUBJECT TO CHANGES

PRINTED

Subject Area that today were removed
Pankukala shoreline, Wailuku, Maui



SECTION	3
ZONE	3
CONTAINING	3
PLANS	3
Scale: 1 in. = 500 ft.	

Subject area rocks removed
Paukukala Shoreline, Wailuku, Maui



Subject as records
removed
Pauluku, Maui
Wailuku, Maui



EXHIBIT 3
Pictures Paukukala Shoreline, Wailuku, Maui

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t gay'
itor says he didn't
anything wrong
On Page A6

Housing
policy
Developer files suit
PAGE A3

Hostages to
be freed?
Taliban agree to
release S. Koreans
On Page A10

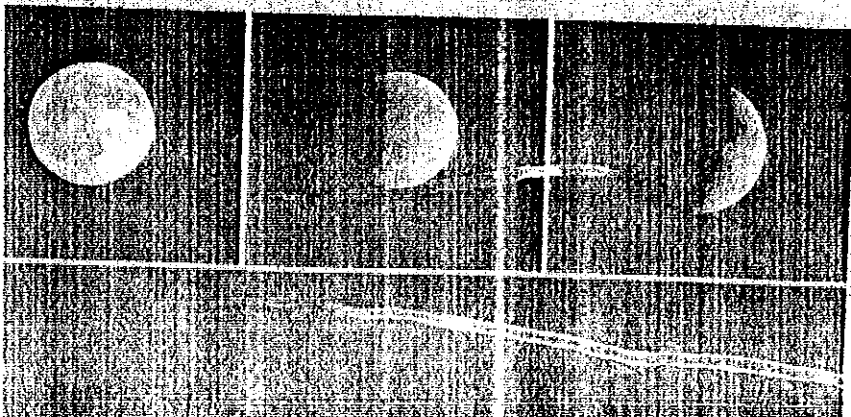
The Maui News

Newspaper Since 1900

WEDNESDAY, August 29, 2007

50 CENTS

full moon takes a night cap



A State Department and Land & Natural Resources boat keeps on a roll

A state Department and Land & Natural Resources boat keeps on eye on protesting surfers, swimmers and canoe paddlers as Hawaii Superferry's Alakai sits outside the entrance to Nawiliwili Harbor Monday in Lihue.

Hawaii Superferry suspends service indefinitely

By JAYMES SONG

The Associated Press

HONOLULU — Hawaii Superferry Inc. on Tuesday suspended operations indefinitely after two turbulent days of emotional protests and legal setbacks. The company halted service after the Coast Guard advised that it could not assure safe passage of the 350-foot ferry and passengers in and out of Nawiliwili Harbor on Kauai, where a flotilla of protesters blocked the vessel's docking late Monday.

A court order sought by environmentalists had already halted service to Maui, with a hearing set for today on a motion for an injunction to block service pending completion of environmental reviews.

Gov. Linda Lingle, a longtime supporter of Superferry, also requested Tuesday that the service be suspended because of public safety concerns.

Lingle said she was concerned by protests Monday night on Kauai that led to 11 arrests after about 65 people on surfboards and in canoes and kayaks formed a human blockade and forced the \$95 million Superferry to turn back to Honolulu.

"We have reason to believe (protesters) would be in the water again trying to stop a huge vessel on a surfboard and that's a recipe for a serious problem," Lingle said.

Opponents say the ferry endangers whales, threatens to spread invasive species and will worsen traffic and pollution. Hawaii Superferry officials say the ship's water jet propulsion system means there are no exposed propellers to strike aquatic animals.

John Garibaldi, Superferry's president and chief executive, said operations will not be resumed until the company is assured by the Coast Guard that it will be able to operate safely.

The company, which invested \$300 million to launch Hawaii's first passenger-vehicle ferry service, faces losing millions of dollars while its service is blocked.

"The cost to us really isn't very important," Garibaldi said. "It's really making sure we can take care of our

Ferry passengers travel by air instead

By CLAUDE SAN NICOLAS
Staff Writer

KAHULUI — Hawaii Superferry passengers stranded with no ship to take them to Oahu were re-signing to their situation Tuesday at the Kahului Harbor.

"I was kind of looking forward to riding it," said Steve Castanola, a Maui resident who had hoped to be among the week's first riders into Oahu on the ferry's 350-foot vessel, the Alakai.

Castanola was forced to travel by air instead, and he left his vehicle in the Maui Superferry parking lot with the hopes that the company would eventually get his 1983 Mercedes Benz over to Honolulu for his use while he trains there with the U.S. Army Reserves. He said he knew there was a risk that he could have problems getting the car back to Maui.

"I'm not concerned," Castanola said. "I'm just going to take my chances."

Second Circuit Judge Joseph Cardoza issued a temporary restraining order Monday afternoon that halted the Superferry service after just two days of service to Kahului Harbor. Cardoza is scheduled to listen to oral arguments at 1:30 p.m. today on a motion for an injunction to block the ferry until all environmental reviews are completed.

Superferry officials said they See MAUI on Page A4

EXHIBIT A

Maui

Continued from Page A1

hoped to be back in service on Thursday, but on Tuesday afternoon they voluntarily suspended voyages into Kauai at the request of Gov. Linda Lingle, who says she's worried about public safety given the protests on the Garden Isle. Police have arrested protesters who blocked the ferry from entering the Nawiliwili Harbor Monday after delaying the docking on Sunday.

On Maui, Cardoza's order provided the ferry with permission to return customers to their home

port as soon as possible between Oahu and Maui, but it appeared many of passengers with pre-paid ferry reservations for Tuesday were being flown to their designated islands by air.

As promised, the Hawaii Superferry issued automatic refunds to customers who booked voyages between Maui and Oahu for Tuesday and today, and agreed to cover airfare expenses for customers stranded away from their home ports.

Vehicles will be returned to their designated port, if allowed by Cardoza, according to Superferry officials. If not, the company will make other arrangements for transport.

"It just kind of depends on the court order," said Hawaii Superferry President and Chief Executive Officer John Garibaldi. He said he's never shipped a car himself between islands, but understands that barges can be used to transport vehicles if the ferry is not able to operate.

Pearl City, Oahu, resident Tiffany Ching brought her 5-month-old baby, Tayvon, on the Alakai for a 24-hour trip to Maui where she visited friends and family on Monday.

"I got sick coming here so I'm happy flying back," Ching said as she carried four boxes of Krispy Kreme doughnuts on her way to the Kahului Airport.

Ching said she watched news reports about the ferry's inaugu-

'How about for years Maui has been coming over and doing the same thing on Oahu. I just don't understand their mentality.'

—Charlie Bright,
Oahu resident, Hawaii Superferry passenger

ral voyages into Maui Sunday night and found comments by protesters here a little bit upsetting.

"It made me feel unwelcome," she said.

About a dozen protesters greeted the first paying passengers into Kahului Harbor on Sunday with handmade signs saying "Re-

spect Our Home" and "Stupid Ferry, Stupid Riders."

"It sucks," Ching said. "People should be able to travel freely and the way they want. The ferry was so easy and at \$5 a head, we were able to spread ourselves out and enjoy the ride."

* Charlie Bright of Oahu took digital photos of his truck and two other trucks belonging to his friends and ferry companions, Ralph Chun and Victor Fonoi Moana, also Oahu residents, before leaving all three vehicles in the Superferry lot by Kahului Harbor.

The three men rode the Alakai to Maui, taking advantage of the inaugural one-way fares of \$5 per person and \$5 per vehicle.

"I just feel like it's a small group of people who are making it hard for the majority of the people," Chun said as he locked up his truck and prepared to ride a shuttle to the Kahului Airport to return to Oahu.

Bright was disappointed in the protests and opposition against the Superferry, shooting back at critics concerned about off-island visitors to Maui and their effects on the island's natural resources.

"How about for years Maui has been coming over and doing the same thing on Oahu," Bright said. "I just don't understand their mentality."

Bright said he brought treats from Oahu for his Maui relatives, and he ended up spending money

here, purchasing, among other items, boxes of doughnuts from the popular Komoda Store & Bakery in Makawao.

"That's right. We're helping the economy," Fonoi Moana said.

Fonoi Moana said he jumped at the chance of riding a ferry, in part because of the deep dis-

counted fares.

"I wanted to take the opportunity to experience it. It was fun and I loved it."

Ron Sturtz, president emeritus of Maui Tomorrow, said his group never intended to stop Superferry operations, but has insisted all along that an environmental assessment on harbor improvements needed to be done by the state Department of Transportation.

Sturtz said he has had many people thank him for fighting for an environmental assessment.

"Everyone in the islands wants to preserve the environment. And this is one way to do that. It may be inconvenient, but it has to be done," he said.

Garibaldi said his company has done a "tremendous amount of environmental work" during the last three to four years and has reached out to environmental groups for consultation and to address their concerns.

He said the legal challenges against the state Department of Transportation, which has jurisdiction over state harbors, has been "frustrating" but he would not comment any further on the court proceedings.

Sturtz said that while protests on Kauai have involved a human blockade stopping the ferry from entering Nawiliwili, Maui Tomorrow along with the Sierra Club of Maui and the Kahului Harbor Coalition, have chosen to

use legal means to get their points heard.

"This is a quality of life issue for all people of Hawaii and that's what we should be focusing on," he said.

Castanola, the Maui resident traveling to Oahu for Army Reserves training, said he believes that Young Brothers should help to pay for the environmental assessment.

"Honestly I was glad to see that Young Brothers was getting competition. I feel like they've got a monopoly and this is a way to keep that monopoly in check," Castanola said.

He agreed with the Lingle administration that the Superferry should not be singled out, when other cargo carriers and cruise ships have not been subject to the same type of environmental review.

Cardoza's restraining order was issued in response to a unanimous Hawaii Supreme Court decision that the state was wrong to bypass an environmental study for improvements at Kahului

See MAUI
on the next page

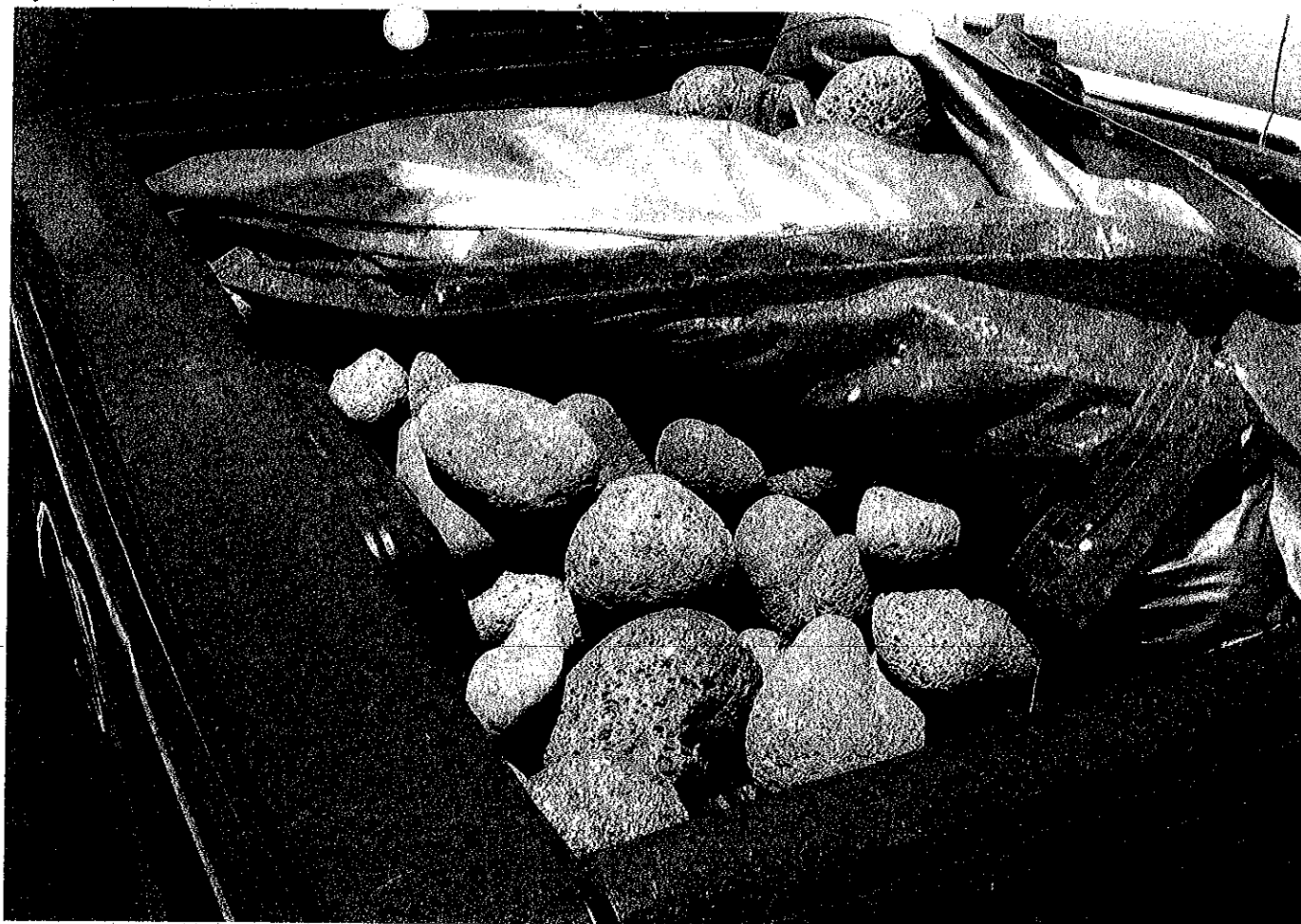


Superferry customers go through screening Tuesday at the Kahului Harbor terminal while dropping their vehicles off so they can be shuttled to Oahu.

LIC FX4-690

REF ID: A62012
CHARLIE BRIGH

The Maui News
MATTHEW THAYER
photo



PHOTOGRAPHS TAKEN BY OFF. J. YAMAMOTO ON 8-31-07

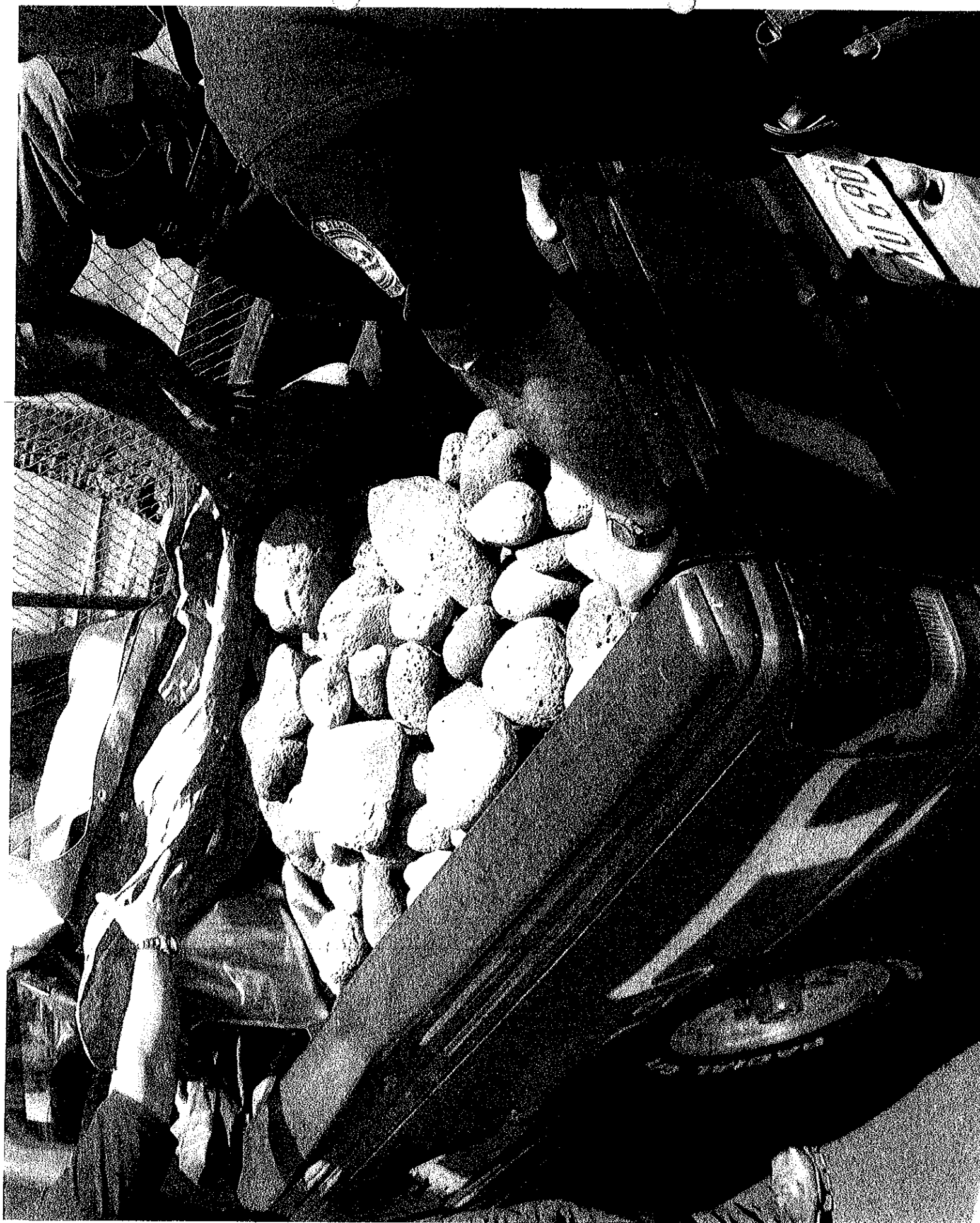
PHOTO DEPICTS: FXU-690, 1994 Ford Pickup, Blue in color, registered to Charlie K & Eileen BRIGHT.

On the right upper portion of photograph, this writer observed rocks in plain view, holding down the tarp. Rocks were also observed through the creases of the tarp.

This officer then moved the tarp on the left rear side of the pickup's bed, to expose the rocks.

EXHIBIT 5

Charlie Bright Ford Ranger



DOCHRE seizing rocks 9/3/07

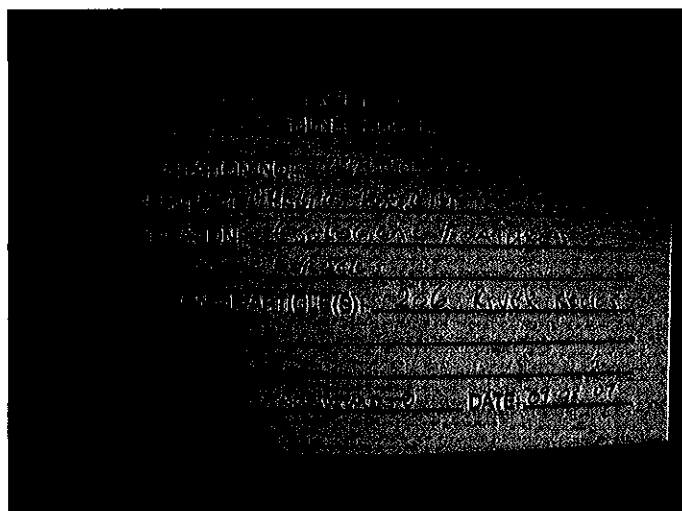


EXHIBIT 5
rocks at DOCHANE base yard, evidence tag, seized vehicle



PHOTOGRAPHS TAKEN BY OFF. J. YAMAMOTO ON 8-31-07

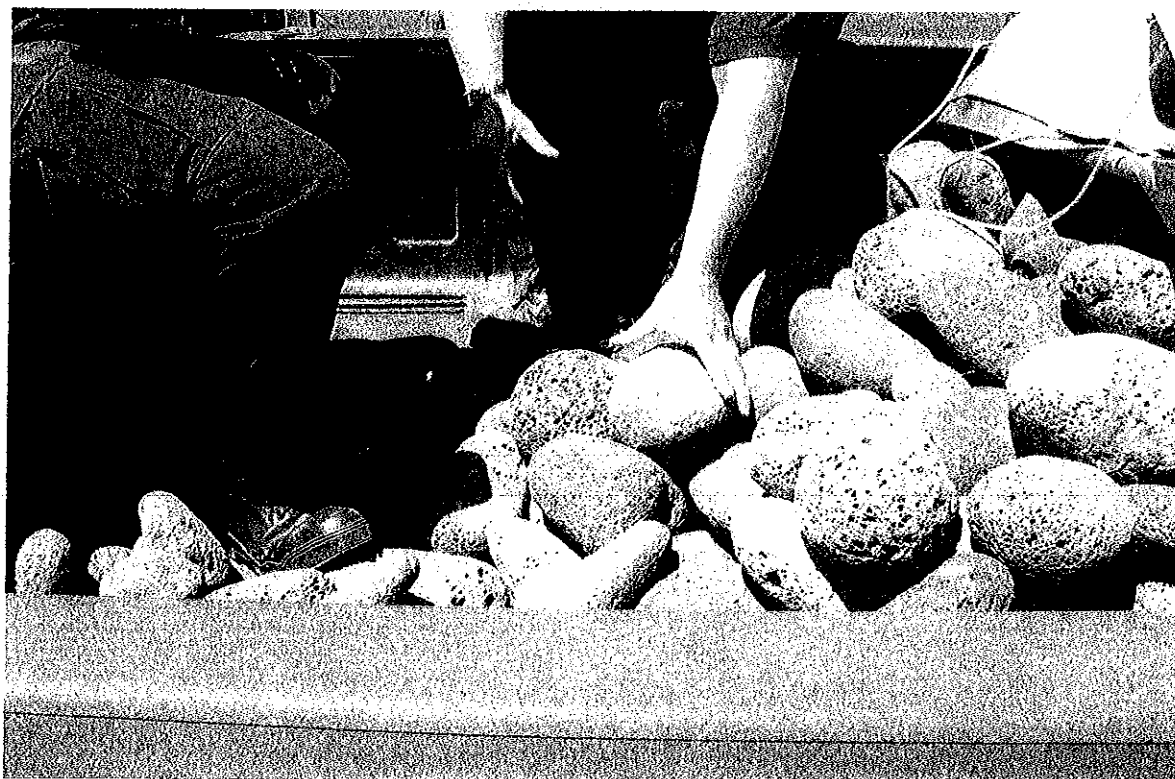
PHOTO DEPICTS: Combat Wounded Plates: 1103, 2001 Chevy Pickup, gray in color, registered to Victor and Evette K. FANOIMOANA.

On the left side of bed, rocks were observed in plain view through the creases of the tarp.

This officer then exposed the right rear portion of tarp, to photograph the rocks.

EXHIBIT 5

Victor Fanoimoana Chevrolet Silverado



Rocks seized from vehicle 9/3/07

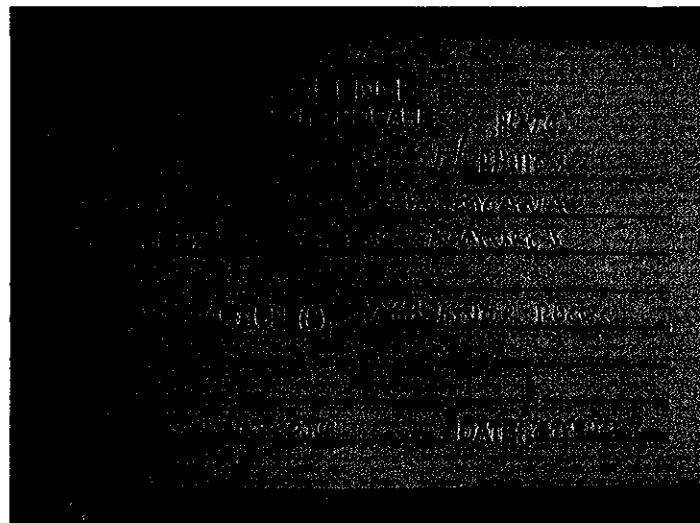
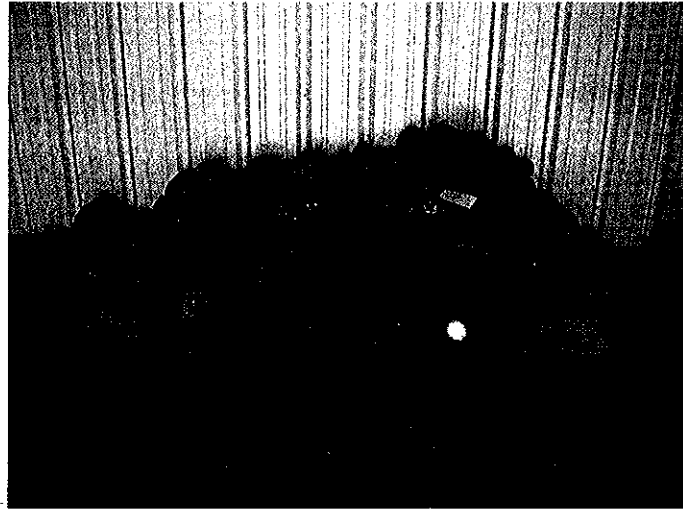


EXHIBIT B

Rocks at Docare baseyard, evidence tag, seized vehicle



PHOTOGRAPHS TAKEN BY OFF. J. YAMAMOTO ON 8-31-07

PHOTO DEPICTS: CE469, 2005 GMC Pickup, white in color, registered to Ralph CHUN.

In the middle portion of bed, notice two rocks which were holding down the tarp. Rocks were also observed through the creases, located along the sides of the tarp, displaying the rocks in plain view.

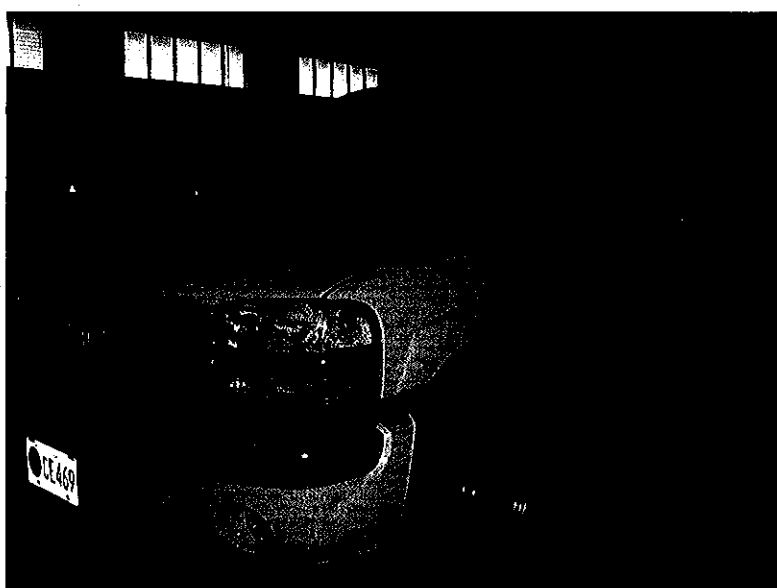
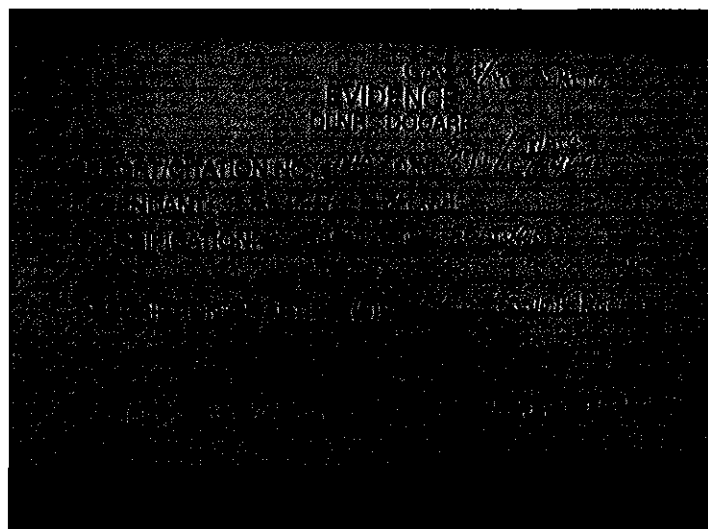


EXHIBIT 5

rocks at DOCHANE houseyard, evidence tag, seized vehicle



rocks seized from vehicle 9/13/07

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF CONSERVATION & RESOURCES ENFORCEMENT
MAUI COUNTY

CONNECT UP INVESTIGATION

WITNESS STATEMENT:

On Monday August 27th 2007 at or about 1130hrs, while off-duty as a State DLNR Enforcement Officer here on Maui; I was surfing alone at a known spot along Waiehu called "River mouth", a point break that divides Paukukalo and Waiehu Bay. This is also the area where the I'ao stream meets the sea.

From the ocean, I observed a total of 3 trucks drive into the area via Ka'ae road access gate to the shoreline, and then reverse their vehicles together all facing their truck beds towards the shoreline. My initial concern at this point was for the safety of my truck parked on the shoreline. As the individuals exited their vehicles, I watched as they all dropped their tailgates and began to hand pick certain rocks from the shoreline, and then load them into the truck beds. At one point, I observed the group working together while one individual picked out the good rocks along the shore, and began tossing them closer to the other persons loading the truck. For reasons concerning officer safety, I decided not to confront any of the responsables involved, but opted to monitor the ongoing activities while in the ocean. This activity involving the collecting of rocks lasted for approximately 30 minutes, at which ended as all three vehicles departed the area together without further incident. No other vehicles or persons were observed in the area during the entire incident.

I was not able to identify any of the individuals or vehicle license plates, but was able to take notice to the three trucks involved. The first truck was a full size Chevy single cab (white in color). The second truck was also a full size Chevy extra cab (gray in color). The third vehicle was a Ford Ranger (turquoise blue in color).

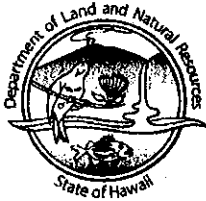
While on duty later on that evening, I apprised my Supervisor Clarence YAMAMOTO of the events observed that morning as an advisory measure. It was not determined until a few days later when DLNR Officer John YAMAMOTO was assigned the case to investigate several unattended vehicles loaded with rocks at Kahului Harbor, waiting to be shipped out to Honolulu via the Superferry.

On Monday September 3rd 2007 at the Superferry parking facility @ Kahului Harbor, the three vehicles above mentioned were positively identified by this writer as being the vehicles involved concerning this investigation. Refer to Case # MA 08-371 for any other facts or information regarding this investigation.

Submitted by,



Officer G. YEN #246
State of Hawaii, DLNR / DOCARE
9/4/07 1610HRS.




STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION


54 High Street, Room 101
Wailuku, Hawaii 96793
PHONE: (808) 984-8103
FAX: (808) 984-8111

September 7, 2007

MEMORANDUM

TO: Randy Awo, Branch Chief, Maui DOCARE

TROUGH: 
Daniel Ornellas, District Land Agent

VIA: 
Larry Pacheco, Land Agent

SUBJECT: Geological Feature Investigation (Taking of Rocks / Minerals)
MA# 08-371. State Unencumbered Public Lands at Nehe, Wailuku, Maui
Hawaii, Seaward of Tax Map Key: (2) 3-4-029:888.

On September 6, 2007, I received a request from Maui DOCARE Field Supervisor Clarence Yamamoto, requesting assistance in identifying land ownership at the site of an ongoing investigation where river rocks were taken from possible State land without authorization.

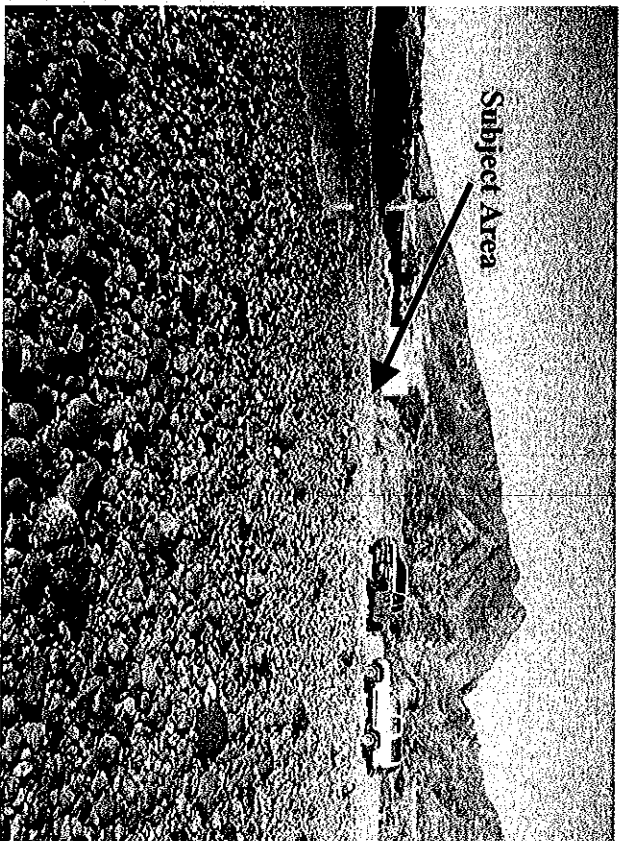
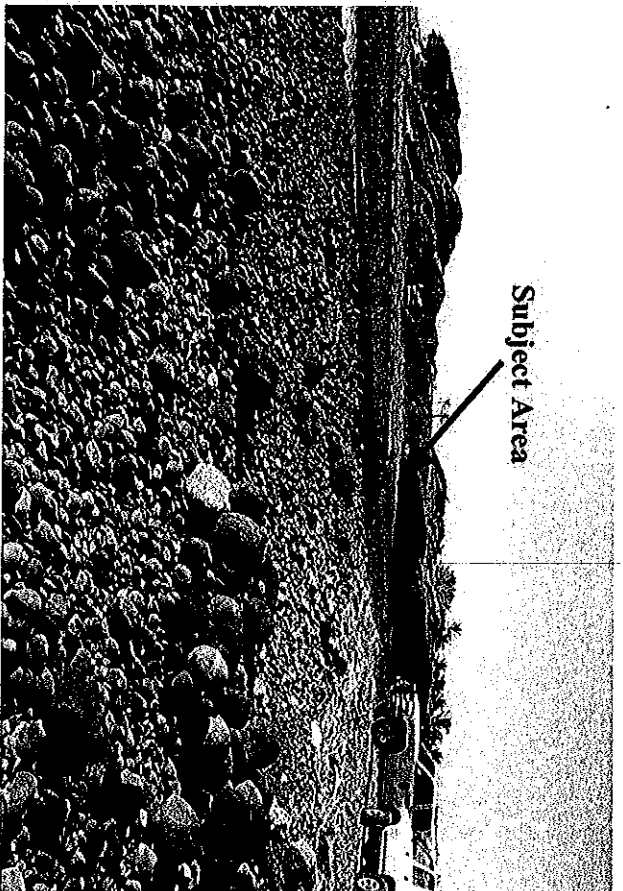
On September 7, 2007 at 7:35 am, I met with Officer Gordon Yen along the shoreline area adjacent to the Iao Stream, off of Kaae Road. At this time Officer Yen identified the subject area where he had witnessed rocks being removed with regards to this investigation. During my checks of the area I was able to determine via the debris line and shoreline erosion that the area described by Officer Yen is State Unencumbered Public Lands and is situated seaward of the shoreline. I also noted that at times during high tides, the subject area is partially submerged.

If you have any questions regarding this matter, please feel free to contact me at 984-8103.

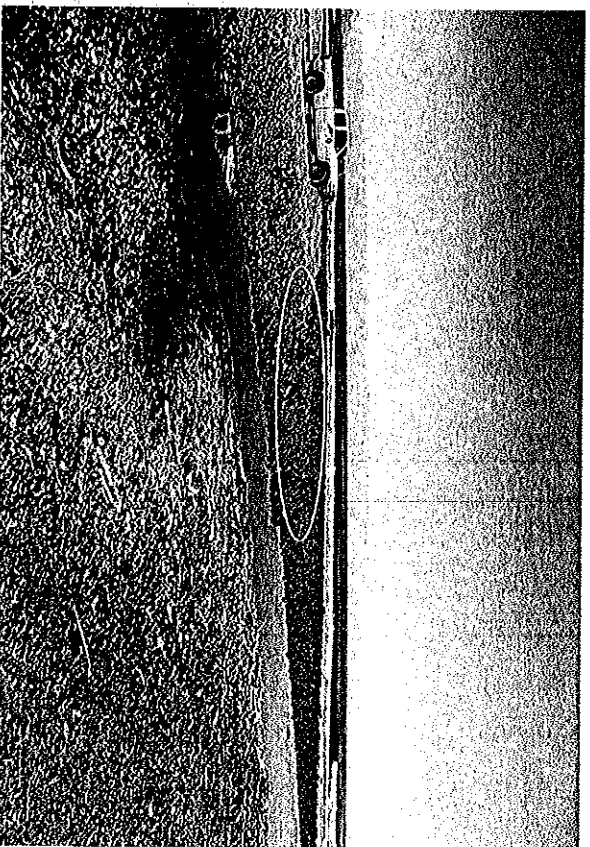
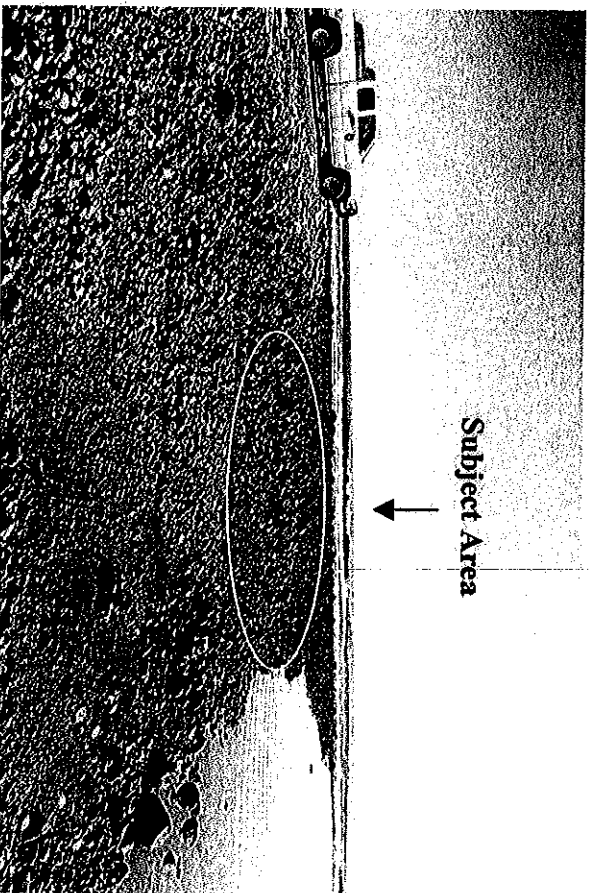
Enclosures: 1) Topographical photo of the subject area.
2) Photos of subject area taken on 9/7/07.

EXHIBIT 7

Photos taken: 9/7/07



MA# 08-371



igneous rocks / Minerals

identified as
red but
one at the